



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 201204-0325]

RIN 0648-BK58

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2021-2022 Biennial Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to the harvest limits for incidental lingcod retention in the salmon troll fishery north of 40°10' N. lat.

DATES: This final rule is effective [*insert date of publication in the Federal Register*].

ADDRESSES:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, phone: 206-526-6147 or e-mail: gretchen.hanshew@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for two-year periods (*i.e.*, a biennium). NMFS published the final rule to implement harvest specifications and management measures for the 2021-2022 biennium for most species managed under the PCGFMP on December 11, 2020 (85 FR 79880). NMFS also published a correction (85 FR 86853, December 31, 2020) and correcting amendments (86 FR 14379, March 16, 2021; 86 FR 27816, May 24, 2021) to implement the Council's recommendations for the 2021-2022 harvest specifications and management measures.

The management measures set at the start of the biennial harvest specifications cycle help the sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the states of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal. At the April 8-9 and 12-15, 2021, virtual meetings, the Council recommended adjusting the incidental retention allowance for lingcod in the salmon troll fishery north of 40°10' N. lat.

Lingcod Retention in the Salmon Troll Fishery

The commercial fishery for salmon using trolled hook and line gear operates off Washington, Oregon, and California, usually beginning in the spring. This fishery is managed by NMFS and co-managers (states and the tribes) to harvest, but not exceed, salmon harvest targets that are set annually, based on the best available scientific information. Participants in the salmon troll fishery are not prohibited from fishing for salmon in areas that are closed to groundfish fishing, like the non-trawl Rockfish Conservation Area (RCA). Salmon trollers, however, when fishing in the RCA north of

40°10' N. lat., are prohibited from retaining groundfish with two exceptions; yellowtail rockfish and lingcod may be retained in limited quantities and subject to an incidental retention ratio of groundfish to Chinook salmon.

The 2021-2022 harvest specifications and management measures final rule, published on December 11, 2020 (85 FR 79880), maintained the existing incidental retention ratio for lingcod, which was last revised in 2019. At the April 8-9 and 12-15, 2021, virtual meeting, the Council recommended a change in the incidental retention ratio to increase the number of incidentally caught lingcod that may be retained per Chinook salmon.

As described in the 2019-2020 harvest specifications and management measures Environmental Assessment, the Council's objectives with the lingcod landing ratio in the salmon troll fishery coupled with a per trip maximum retention limit are to allow incidentally caught lingcod to be landed. The intent of this ratio is to strike a balance between providing a modest economic benefit to the salmon troll fishery and reducing regulatory discards of lingcod, while also dissuading targeting of lingcod and not preempting targeted lingcod harvest opportunities in the groundfish fishery.

The most recent stock assessment (2017) indicates that biomass of lingcod has been increasing since 1999. Salmon trollers also testified at the April Council meeting that they are catching lingcod more often than in previous years when targeting Chinook salmon. While lingcod are increasing in abundance, Chinook salmon harvest opportunities are becoming more restricted. Landings and numbers of trips, which are indicators of fishing effort, for Chinook salmon in 2020 were the lowest since 2011, which is likely due to effects of the COVID-19 pandemic, as well as restricted Chinook salmon harvest opportunities in low abundance years. With low Chinook salmon harvest in 2020, lingcod reached its highest revenue contributions to salmon troll fishermen. This indicates that lingcod is contributing to fishing portfolios of some salmon troll fishermen,

though the number of salmon troll vessels that retain lingcod (approximately 13.5 percent) has remained fairly steady since 2011. In response to these changes, at the April Council meeting, industry requested a change in the incidental lingcod retention ratio in the salmon troll fishery to allow for increased lingcod retention. Industry did not request a change to the incidental lingcod retention trip limit of ten lingcod or to any of the other lingcod harvest limits.

In response to industry's request, the Council considered most recently available scientific and fishery information, including but not limited to harvest levels in the salmon troll fishery in recent years, mortality estimates for 2019, and forecasts for ocean salmon fisheries. Based on this information, the Council recommended a change to the lingcod landing ratio in the salmon troll fishery.

The Council's recommendation to the incidental lingcod retention ratio in the salmon troll fishery was based on:

(1) a lack of evidence that salmon trollers were targeting lingcod during Chinook salmon trips under the 2019 and 2020 landing ratio:

(2) predicted harvests of lingcod and co-occurring yelloweye rockfish that are expected to remain well within the 2021 Annual Catch Limits, while not preempting targeted groundfish fishing opportunities;

(3) anecdotal information about an increasing lingcod encounter rate in the salmon troll fishery; and

(4) the economic benefits of reducing regulatory discards and allowing retention of lingcod, particularly in Chinook salmon low abundance years.

Therefore, the Council recommended, and NMFS is implementing, a change in the incidental lingcod retention ratio in the salmon troll fishery north of 40°10' N. lat. from a ratio of one lingcod per five Chinook salmon to a ratio of one lingcod per two

Chinook salmon. The rules allowing a “plus one” lingcod in addition to the ratio, a ten lingcod per trip limit, and a 1,000 lbs/month limit would remain in place.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best scientific information available, consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection by contacting Abbie Moyer in NMFS West Coast Region (see **FOR FURTHER INFORMATION CONTACT**, above), or view at the NMFS West Coast Groundfish website:

<http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html>.

NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. The adjustments to management measures in this document affect commercial fisheries off the coasts of Washington, Oregon, and northern California. No aspect of this action is controversial, and changes of this nature were anticipated in the final rule for the 2021-2022 harvest specifications and management measures which was published on December 11, 2020 (85 FR 79880). Accordingly, for the reasons stated below, NMFS finds good cause to waive prior notice and comment.

At its April 2021 meeting, the Council recommended changing the retention ratio of lingcod to Chinook salmon in the salmon troll fishery to allow lingcod to be retained up to the status quo ten lingcod trip limit even if fewer Chinook salmon are on board. The Council recommends relieving the restriction imposed by the ratio as soon as possible,

early in the salmon troll season, in an effort to reduce regulatory discards of lingcod in the salmon troll fishery north of 40°10' N. lat. The 2020 fishery information upon which this recommendation is based, was not complete and available until early 2021, and therefore could not have been used during the development of the 2021-2022 harvest specifications and management measures.

Additionally, if the new retention ratio is not implemented until closer to the end of the Chinook salmon troll season, after proposed and final rulemaking, lingcod would continue to be discarded rather than retained. Leaving the old ratio in place would fail to meet the Council's objectives to reduce regulatory discards of lingcod, and to provide economic benefits to the salmon troll fishery while not preempting directed groundfish fisheries. Therefore, providing a comment period for this action could limit the benefits to the salmon troll fishery, and the vessels that participate in it.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

For the same reasons stated above, NMFS has determined good cause exists to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d) so that this final rule may become effective upon publication in the **Federal Register**. The adjustments to management measures in this document affect commercial fisheries by changing the lingcod to Chinook salmon retention ratio in the salmon troll fishery north of 40°10' N. lat. This adjustment was requested by the Council's advisory bodies, as well as members of industry, during the Council's April 2021, meeting, and recommended unanimously by the Council. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established

through a notice and comment rulemaking for 2021-2022 (85 FR 79880, December 11, 2020).

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: June 4, 2021.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. Revise Table 3 (North) to part 660, subpart F, to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.						
Other limits and requirements apply – Read §§660.10 through 660.399 before using this table						
	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)^{1/}:						
¹ North of 46°16' N. lat.	shoreline - 100 fm line ^{1/}					
² 46°16' N. lat. - 40°10' N. lat.	40 fm line ^{1/} - 100 fm line ^{1/}					
³	30 fm line ^{1/} - 40 fm line ^{1/2/}					
See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Bank, and EFHCAs).						
State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
⁴ Minor Slope Rockfish ^{3/} & Darkblotched rockfish	2,000 lbs / months					
⁵ Pacific ocean perch	100 lbs/ month					
⁶ Sablefish	600 lbs. daily, or 1 landing per week up to 2,000 lbs, not to exceed 4,000 lbs/2 months					
⁷ Shortpine thornyheads	50 lb/month					
⁸ Longspine thornyheads	50 lb/month					
⁹ Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish ^{4/8/}	5,000 lbs/ month					
¹² Whiting	300 lbs/ month					
¹³ Minor Shelf Rockfish ^{3/}	800 lbs / month					
¹⁴ Widow rockfish	2,000 lb/ 2 months					
¹⁵ Shortbelly Rockfish	200 lbs / month					
¹⁶ Yellowtail rockfish	1,500 lbs/ month					
¹⁷ Canary rockfish	1,000 lbs/ 2 months					
¹⁸ Yelloweye rockfish	CLOSED					
Minor Nearshore Rockfish, Oregon black/blue/deacon rockfish & CA black rockfish						
²⁰ North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish ^{5/}					
²¹ 42°00' N. lat. - 40°10' N. lat.	7,000 lb/ 2 months, no more than 2,000 lb of which may be species other than black rockfish					
²² Lingcod ^{6/}						
²³ North of 42°00' N. lat.	2,000 lbs/ month					
²⁴ 42°00' N. lat. - 40°10' N. lat.	1,000 lbs / month					
²⁵ Pacific cod	1,000 lbs/ 2 months					
²⁶ Spiny dogfish	200,000 lbs/ 2 months	150,000 lbs/ 2 months		100,000 lbs/ 2 months		
²⁷ Longnose skate	Unlimited					
²⁸ Big skate	Unlimited					
²⁹ Other Fish ^{7/} & Cabezon in California	Unlimited					
³⁰ Oregon Cabezon/Kelp Greenling	Unlimited					
³¹ SALMON TROLL (subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)						
³² North	Salmon trollers may retain and land up to 500 lbs of yellowtail rockfish per month as long as salmon is on board, both within and outside of the RCA. Salmon trollers may retain and land up to 1 lingcod per 2 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. The lingcod limit only applies during times when lingcod retention is allowed, and is not "CLOSED." These limits are within the per month limits described in the table above, and not in addition to those limits. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					
³³ PINK SHRIMP NON-GROUNDFISH TRAWL (not subject to RCAs)						
³⁴ North	Effective April 1 - October 31: Groundfish: 500 lbs/day, multiplied by the number of days of the trip, not to exceed 1,500 lbs/trip. The following sublimits also apply and are counted toward the overall 500 lbs/day and 1,500 lbs/trip groundfish limits: lingcod 300 lbs/month (minimum 24 inch size limit); sablefish 2,000 lbs/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lbs/day and 1,500 lbs/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					
^{1/} The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.						
^{2/} Between 46°16' N. lat. and 40°10' N. lat. and the 30 fm and 40 fm lines, fishing is only allowed with hook-and-line gear except bottom longline and dinglebar gear, as defined in §660.11						
^{3/} Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.						
^{4/} "Other flatfish" are defined at § 660.11 and include butter sole, curfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.						
^{5/} For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbss or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.						
^{6/} The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.						
^{7/} "Other fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.						
^{8/} Open access vessels are allowed to fish inside groundfish conservation areas using hook and line only. See section 660.330 (d) of the regulations for more information.						
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.						

TABLE 3 (North)

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